



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0038; Notice 1]

RECARO Child Safety, LLC, Receipt of Petition for  
Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT

**ACTION:** Receipt of Petition

**SUMMARY:** RECARO Child Safety, LLC (RECARO)<sup>1</sup> has determined that certain RECARO brand ProSport child restraint systems produced between June 16, 2010 and January 31, 2013, do not fully comply with paragraph S6.1.2(a)(1)(i)(D) of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems*. RECARO has filed an appropriate report dated February 6, 2013, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), RECARO submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

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<sup>1</sup> RECARO Child Safety, LLC is a manufacturer of motor vehicle equipment and is registered under the laws of the state of Michigan.

This notice of receipt of RECARO's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

**Equipment Involved:** Affected are approximately 39,181 RECARO brand ProSport child restraint systems produced between June 16, 2010 and January 31, 2013.

**Summary of Recaro's Analysis and Arguments:** RECARO explains that the noncompliance is that the RECARO ProSport child restraint system does not comply with the head excursion requirements of FMVSS 213 S5.1.3.1(a)(1) when subjected to the dynamic test requirements of FMVSS No. 213 S6.1.2(a)(1)(i)(D), using a six year old test dummy secured to the test bench by lower anchors and no tether.

In support of this Petition, RECARO submits the following comments and data:

1. The dynamic test requirements of FMVSS No. 213 S6.1.2(a)(1)(i)(D) require using a six year old test dummy secured to the test bench using lower anchors and no tether. This test procedure is a direct violation of the instructions and warnings in the instruction manual included with each ProSport child restraint system and would constitute a major misuse of the child restraint by

the consumer. (RECARO provided the entire manual as part of its petition.)

2. RECARO has received over 9,000 registration cards returned by purchasers of the ProSport. Using the on-line survey system Survey Monkey, RECARO instituted a survey of 3,690 registered owners by e-mailing each purchaser the following survey questions:

- a. Are you currently using your ProSport child restraint?

- b. How is (was) your ProSport installed in the vehicle?

- i. Vehicle lap/shoulder belt

- ii. Lower anchors provided with child restraint

(LATCH)

- c. Did you use the top tether included on the ProSport to install the child restraint into the vehicle?

929 registered owners responded to the survey by confirming that they installed the child restraint with lower LATCH anchors. Of those responding, 837 or 90.1% confirmed that the top tether was being used to install their ProSport when installing the child restraint with lower LATCH anchors. (RECARO included a copy of the survey details and results as part of its petition.) RECARO stated its belief that the survey is a statistically significant confirmation that a very small percentage of ProSport consumers are misusing the child restraint by not

using the top tether when installing the child restraint with lower LATCH anchors and that the effectiveness of any noncompliance notification campaign will be minimal, given the historically low response rate to technical noncompliance notification campaigns of child restraints. For example, the survey results indicate that only those ProSport consumers not properly using the top tether when installing the child restraint with lower LATCH anchors are likely to respond to a noncompliance notification. Assuming a response rate of 10% by this group, only 400 of the estimated 4,000 consumers misusing the child restraint are likely to respond. This statistically insignificant response renders the technical noncompliance at issue inconsequential.

3. All vehicles equipped with lower child restraint (LATCH) anchors are also equipped with top tether anchors. RECARO has received 82 consumer calls regarding the ProSport. (RECARO included copies of consumer call reports as part of its petition.) No consumer has questioned the use of the tether when securing the ProSport with the lower anchors. RECARO has no information of this misuse actually occurring in the field or of any injuries sustained by a child when restrained in a ProSport in this misuse condition.

4. RECARO has received notice of three accidents involving four children seated in ProSport child restraint systems. In these incidents, the ProSport performed well and the occupant was not injured. It is not known if the ProSports involved were installed using the lower LATCH anchors or, if so, whether the top tethers were used.
5. RECARO has implemented an engineering/structural modification to the ProSport. Dynamic tests of the modified ProSport using a Hybrid II six year old test dummy secured to the test bench using lower anchors and no tether confirm that the head excursion requirements of FMVSS No. 213 S5.1.3.1(a)(1) are met. (RECARO included copies of the test reports as part of its petition.)
6. RECARO stated its belief that the ProSport outperforms any comparable child restraint with regards to head excursions when installed with the lap/shoulder belt.
7. Given the relative small number of ProSport child restraints distributed since introduction in June 2010 (39,181), the effectiveness of any notification campaign regarding this technical noncompliance will be limited. Additionally, any noncompliance notice campaign may result in consumers deciding to discontinue using their ProSport for a period of time, increasing the risk of injury to a higher degree than the risk resulting from the small

number of consumers misusing the child restraint by not using the top tether when installing the child restraint with lower LATCH anchors.

RECARO has additionally informed NHTSA that it has stopped production of the ProSport at the end of January 2013.

In summation, RECARO believes that the described noncompliance of its equipment is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

**Comments:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- a. By mail addressed to: U.S. Department of Transportation,  
Docket Operations, M-30, West Building Ground Floor,  
Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC  
20590.
- b. By hand delivery to U.S. Department of Transportation,  
Docket Operations, M-30, West Building Ground Floor,  
Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC  
20590. The Docket Section is open on weekdays from 10  
am to 5 pm except Federal Holidays.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) website at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date

indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the subject 39,181<sup>2</sup> child restraint systems that RECARO no longer controlled at the time it determined that the noncompliance existed.

**Comment Closing Date:** (insert date 30 days after Publication Date).

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

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<sup>2</sup> RECARO's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt RECARO as a motor vehicle equipment manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the affected motor vehicle equipment. However, a decision on this petition cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant motor vehicle equipment under their control after RECARO notified them that the subject noncompliance existed.



**Issued On: May 21, 2013**

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Claude H. Harris, Director  
Office of Vehicle Safety Compliance

**BILLING CODE:** 4910-59-P

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